

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 5/24/2012

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Agreement to Purchase property for the Derrick Street Property Acquisition.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Agreement to Purchase between the City of Huntsville and James L. Johnson aka Jimmy Johnson for the Derrick Street Property Acquisition.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: 20,000

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 5/16/2012

RESOLUTION NO. 12-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into an Agreement by and between the City of Huntsville and James L. Johnson aka Jimmy Johnson, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "AGREEMENT TO PURCHASE BETWEEN THE CITY OF HUNTSVILLE AND JAMES L. JOHNSON aka JIMMY JOHNSON," consisting of five (5) pages including Exhibit A, and the date of May 24, 2012, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 24th day of May, 2012.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 24th day of May, 2012.

Mayor of the City of
Huntsville, Alabama

AGREEMENT TO PURCHASE

THE CITY OF HUNTSVILLE, an Alabama municipal corporation (hereinafter referred to as "Buyer" or the "City") agrees to purchase the real property described in Paragraph One (1) from **JAMES L. JOHNSON aka JIMMY JOHNSON** ("Seller"), who agrees to sell the Property. In consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of such by Seller is hereby acknowledged, the parties hereby agree as follows:

1. **Sale and Purchase**

Seller shall sell and Buyer shall purchase, subject to the terms and conditions herein, property located in Huntsville, Madison County, Alabama (the "Property"), which is more particularly described in the attached Exhibits "A," which are incorporated herein by reference.

2. **Purchase Price**

The total Purchase Price for the Property shall be **Twenty Thousand and no/100 Dollars (\$20,000.00)** which shall be payable at Closing.

3. **Conditions of Sale**

This Agreement is subject to approval by the City Council within 60 days from the date it is executed. This Agreement is also conditioned upon a title search/title commitment on the Property satisfactory to Buyer, including but not limited to, a title search/commitment showing Seller as the fee simple owner of the Property. Any liens and/or judgments against the Property must be satisfied as a condition of Closing. In addition, as a condition of Closing, the sale of the Property must be approved by the United States Bankruptcy Court for the Northern District of Alabama, in Case Number 2010-82490-JAC13. All conditions of Closing must be resolved and/or satisfied within ninety (90) days of this Agreement being fully executed or this Agreement shall automatically terminate, unless the same is extended in writing by Buyer.

4. **Title**

Title to the Property together with all easements and appurtenances shall be conveyed to Buyer by General Warranty Deed in a form and content satisfactory to Buyer, in accordance with the laws of the State of Alabama, conveying fee simple marketable title to Buyer, free and clear of all liens, encumbrances and other matters affecting title, except a lien for taxes not yet due and payable,

President of the City Council of the
City of Huntsville, Alabama
Date: _____

matters of survey, and existing easements and restrictions of record. Any existing mortgages, liens, and/or judgments on the Property shall be paid and satisfied at or prior to Closing.

Closing shall be within thirty (30) days after the conditions set forth in Paragraph Three have been satisfied, or earlier at the option of Buyer:

1. Real Property Taxes for the current year shall be prorated as of the date of Closing.
2. Seller shall deliver to Buyer an Affidavit of no Liens and attesting to Seller's sole possession.
3. Seller shall provide affidavits and/or indemnities in such forms as are satisfactory to Buyer's counsel in order to establish clear title to the Property.
4. Buyer shall pay for all costs of closing, including recording of the deed and all transfer and conveyance taxes. Each party shall pay its own attorney's fees in connection with Closing.
5. Seller shall provide a general warranty deed at Closing at Seller's expense.

5. Acceptance

In order to be binding, a copy of this Agreement must be executed by both parties on or before 5:00 p.m. Central Standard Time, May 15, 2012.

6. Broker

Seller and Buyer acknowledge that no broker and/or finder arranged the sale of Seller's Property on the terms and conditions contained herein. Seller and Buyer do hereby agree to indemnify each other from all loss, damage, cost or expense, including attorney's fees, that they may suffer as a result of any claim or action brought by any broker acting on behalf of Seller or Buyer, respectively.

7. Time of the Essence

Time is of the essence of this Agreement.

8. Attorney's Fees

In the event of a dispute between the parties pursuant to the terms of this Agreement, the prevailing party shall be entitled to collect reasonable attorney's fees.

9. Successors

All rights and obligations of Buyer and Seller under this Agreement shall inure of the benefit of and be binding upon all successors and assigns of each of them.

10. Amendment

No modification or amendment of this Agreement shall be of any force or effect unless in writing and executed by each party hereto. To the extent that escrow, closing or settlement instructions or other similar documents are inconsistent with the terms and conditions of the purchase and sales contained herein, this Agreement shall control and shall survive the recordation of any and all deeds.

11. Entire Agreement

This Agreement contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement has been or is relied upon by either party. Each party has relied upon his own examination of the full Agreement and the provisions thereof and the warranties, representations and covenants expressly contained in the Agreement itself. The failure or refusal of either party to inspect the Agreement or other documents, or to obtain legal advice or other advice relevant to this transaction, constitutes a waiver or any objection, contention or claim that might have been based upon such reading, inspection or advice.

12. Interpretation

This Agreement shall be interpreted in accordance with Alabama law. Unless otherwise provided, all terms shall have the meaning given them in ordinary English usage and as customarily used. Words in the masculine gender include feminine and neuter. The paragraph headings and titles of this Agreement are not part of this Agreement, having been inserted for convenience of reference only, and shall have no effect upon the construction or interpretation of any part of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to Purchase to be executed on this _____ day of _____, 2012.

[Signature Page to Follow]

BUYER:

The City of Huntsville, Alabama

By: _____
Tommy Battle, Mayor

Attest: _____
Charles Hagood, Clerk Treasurer

Date: April 26, 2012

SELLER:

Witness

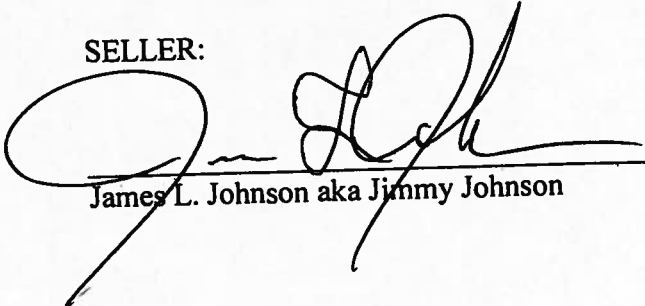

James L. Johnson aka Jimmy Johnson

EXHIBIT "A"

Lot 33 of Tate Lowry Subdivision, as recorded in Plat Book 1, Page 149, Probate Records of Madison County, Alabama.

And also

Lot 34 of Tate Lowry Subdivision, as recorded in Plat Book 1, Page 149, Probate Records of Madison County, Alabama.

And also

All that property being described as the South 100 feet of Lot 35, and the South 100 feet of Lot 36, and the South 100 Feet of Lot 37, of Tate Lowry Subdivision, as recorded in Plat Book 1, Page 149, Probate Records of Madison County, Alabama.

And also

All that property being described as the North 50 feet of Lot 35 and the North 50 feet of Lot 36 of Tate Lowry Subdivision, as recorded in Plat Book 1, Page 149, Probate Records of Madison County, Alabama.

And also

All that property being described as the North 50 feet of Lot 37 of Tate Lowry Subdivision, as recorded in Plat Book 1, Page 149, Probate Records of Madison County, Alabama.

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Legal

Council Meeting Date: 5/24/2012

Department Contact: Peter Joffrion

Phone # 427-5026

Contract or Agreement: _____

Document Name: Agreement to Purchase Property for Derrick Street Acquisition.

City Obligation Amount: _____ 20,000

Total Project Budget: _____

Uncommitted Account Balance: _____

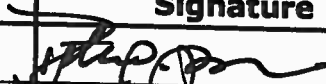


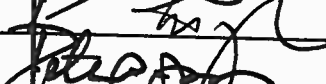
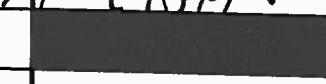
Account Number: 23-5100-0801-8708 26

Procurement Agreements

Select...	Select...
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Grant-Funded Agreements

Select...	Grant Name:

Department	Signature	Date
1) Originating		5-18-12
2) Legal		5-18-12
3) Finance 		5/10
4) Originating		5-18-12
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		